IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5667 of 1988

For Approval and Signature:

Hon'ble MR.JUSTICE H.K.RATHOD

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

CHUNILAL K PATEL

Versus

GUJ STATE FERTILIZER CO LTD

Appearance:

MR SA BHONSLE for Petitioner

MR SN SHELAT for Respondent No. 1

CORAM : MR.JUSTICE H.K.RATHOD

Date of decision: 18/02/2000

ORAL JUDGEMENT

Today, though the matter was called out thrice, nobody has appeared for the petitioner. Mr. Shelat, learned advocate has appeared for the respondent and has pointed out two facts, one of which is that the present

petition is not maintainable in law in light of the decision reported in 1995 (2) GLH 179 wherein it has been held that the GSFC is not a "State" or "other authority" within the meaning of Article 12 of the Constitution of India and, therefore, petition under Article 226 of the Constitution of India cannot be entertained and maintained. He has next submitted that at the time of filing of this petition, the very petitioner has raised the industrial dispute at the instance of the Employees' Union in respect of the promotion of the petitioner to the post of Asstt. Editor which was pending before the Industrial Tribunal, Baroda being Reference (IT) No. 128 of 1984 which was originally numbered as Reference NO. 50 of 1981 in which reference, statement of claim was submitted by the union and reply thereto was filed by the respondent. He has further pointed out that the said reference has been decided by the industrial tribunal Baroda against the petitioner by award dated 20th April, 1993 and the demand of the petitioner through its union was rejected by the tribunal. Said award of the tribunal was challenged by the petitioner before this Court by filing special civil application no. 9028 of 1993 and the said petition was dismissed by this court on 5th November, 1993 and, therefore, according to the submission of Mr. Shelat, this petition is not maintainable and the same is required to be dismissed.

I have considered the submissions made by Mr. Shelat, the learned advocate for the respondent. As per the aforesaid decision reported in 1995 (2) GLH 179, the respondent GSFC is not a " State " or "the other authority of the State" within the meaning of Art. 12 of the Constitution of India. Therefore, petition against the respondent herein under Article 226 of the Constitution of India with a prayer for issuance of the writ of mandamous or any other appropriate writ,order or direction is not maintainable. However, if the merits of the matter are looked into, the very petitioner has raised the industrial dispute before the industrial tribunal and the same was rejected against which, he had filed the petition which too was rejected by this Court. Thus, on merits also, this petition is required to be rejected as the petitioner has no case.

In view of these facts, this petition is dismissed. Rule is discharged. There shall be no order as to costs.

18.2.2000. (H.K.Rathod,J.)

Vyas